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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059235
Party	Plaintiff Nite Ize, Inc.
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Submission	Motion for Summary Judgment
Filer's Name	Robert P. Ziemian
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Signature	/RPZ/
Date	01/21/2015
Attachments	SubmissionswithMotionforSummaryJudgement.pdf(88367 bytes) ExhibitN1.pdf(3188071 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 4179235
Mark: NITEYE

_____)	
NITE IZE, INC.,)	
)	
Petitioner,)	Cancellation No. 92059235
)	
v.)	
)	
ZHANGWEI MO,)	
)	
Respondent.)	
_____)	

MISCELLANEOUS LETTER

Petitioner Nite Ize, Inc. ("Petitioner" or "Nite Ize"), through undersigned counsel, submits the following 11 separate submissions as split out below due to the 6MB restriction on filings.

<u>Submission</u>	<u>Contents</u>
1	Motion for Summary Judgement Declaration of Clint Todd Exhibit A through Exhibit E
2.	Exhibit F1
3.	Exhibit F2
4.	Exhibit G through Exhibit M
5.	Exhibit N
6.	Exhibit N1
7.	Exhibit N2
8.	Exhibit O
9.	Exhibit O1
10.	Exhibit O2
11.	Exhibit O3

Dated January 21, 2015

Respectfully submitted,
SQUIRE PATTON BOGGS (US) LLP

By:



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Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that on this 21st day of January 2015, a copy of the foregoing documents listed in submissions 1-11 was served by e-mail and by first class mail to the following:

P. Jay Hines
Muncy, Geissler, Olds & Lowe P.C.
4000 Legato Road, Suite 310
Fairfax, Virginia 22033
E-mail: jh@mq-ip.com

/Theresa Cope/

BulletPoints

GEAR, CONTINUED

MINI MAG UPGRADE

Fish your old Mini Mag out of the drawer and put it back into service with a **Nite Ize Upgrade kit**. The package comes with a three-bulb LED replacement and a simple on-off switch rear cap. You end up with a dramatically brighter, whiter light that stays illuminated four times longer with one set of batteries. Choose among the included clear, green, blue, and red lenses. \$9; 800-678-6483; niteize.com

—PETER B. MATHIESEN



ANGLING QUEST

The new **L.L. Bean Quest series large-arbor fly reels** are among the best values in flyfishing. Three versions of the center-drag, molded-composite reel take line sizes 3 through 8 with ample backing. At these prices, you can't go wrong. \$25-\$35; 800-221-4221; llbean.com

—JOHN MERWIN

Best Deal in Flyfishing



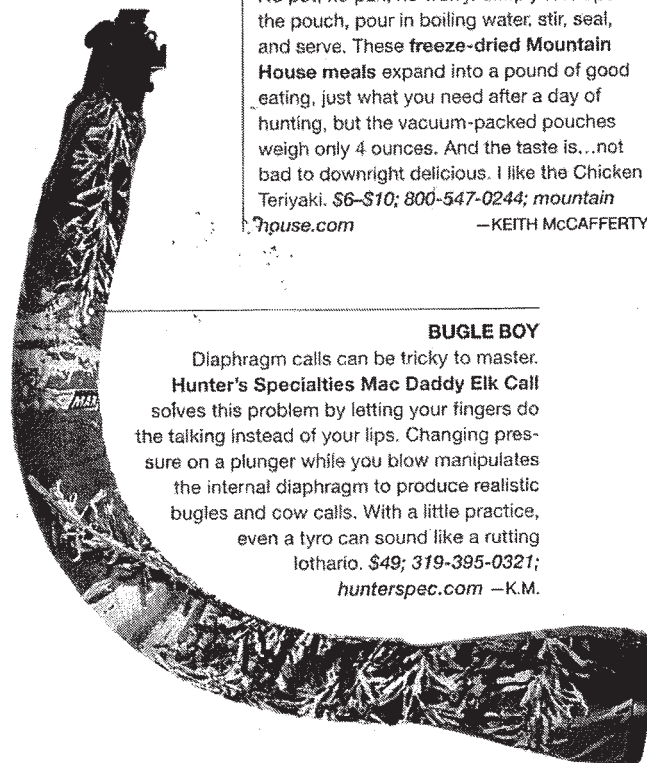
GOURMET GRUB

No pot, no pan, no worry. Simply tear open the pouch, pour in boiling water, stir, seal, and serve. These **freeze-dried Mountain House meals** expand into a pound of good eating, just what you need after a day of hunting, but the vacuum-packed pouches weigh only 4 ounces. And the taste is...not bad to downright delicious. I like the Chicken Teriyaki. \$6-\$10; 800-547-0244; mountainhouse.com

—KEITH MCCAFFERTY

BUGLE BOY

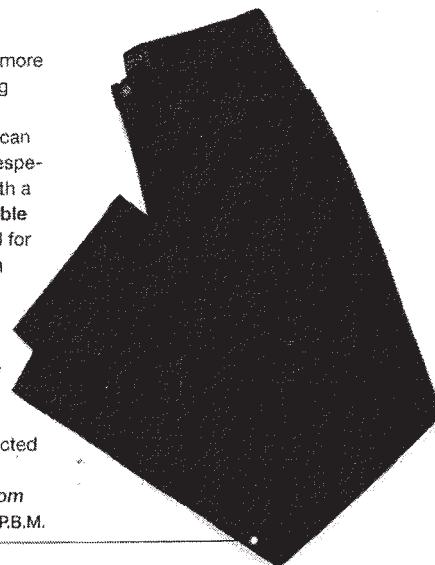
Diaphragm calls can be tricky to master. **Hunter's Specialties Mac Daddy Elk Call** solves this problem by letting your fingers do the talking instead of your lips. Changing pressure on a plunger while you blow manipulates the internal diaphragm to produce realistic bugles and cow calls. With a little practice, even a tyro can sound like a rutting lothario. \$49; 319-395-0321; hunterspec.com —K.M.



TECH PANTS

Few tasks shred pants more thoroughly than hanging tree stands or hunting upland birds. Now you can protect your legs and (especially) your backside with a pair of **Arborwear Double Seat Pants**. Developed for tree trimmers and sewn from nearly tearproof 11-ounce cotton, these trousers have deep, accessible pockets and a comfortable gusseted crotch that gives your legs unrestricted freedom. \$50; 888-578-8733; arborwear.com

—P.B.M.



FLASHLIGHT, MEAL PACKS, ELK CALL: DAN SAEILINGER; REEL, PANTS: TED MORRISON

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**Refresh
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page 48

**Holiday
Special**
**13 PAGES OF
THE
COOLEST
STUFF
WE COULD FIND**

SWEATPROOF SWAG FOR WORKOUTS AND ADRENALINE JUNKIES BY LARA ROSENBAUM



GET A GRIP

Dumbbells rule for toning. If only they didn't leave us with calluses like Bob the Builder's. Enter squeezable, palm-preserving **Danskin weighted toning balls** (\$15 to \$25, fitnessgm.com). Available in 4-, 6-, 8-, and 10-pound hefts, they can sub in for any dumbbell exercise. Bonus: Work your core by doing side-to-side tosses with a partner.



THE CLINCHER

Aluminum Nite Ize Figure 9 rope tighteners (\$2 to \$7, niteize.com) make tying, adjusting, and undoing knots a cinch. Simply tie one end of your rope around the 9's metal loop and wrap it around your cargo (surfboard, tent poles, what have you). Next, pull the rope over the small hook to adjust tension, then wedge it in the serrated hook to secure. Done.



NICE! Help a pal hold on to her gear.

FOUR FOR THE ROAD

Send your favorite on-the-go girl packing with these standout stocking stuffers

For: The Gear Nut

Your trailblazing, mogul-cruising bud will have no problem cashing in a backcountry.com gift certificate. The site has the latest high-tech gear

and gadgets—from GPS watches to 3-ounce water-proof windbreakers—and nothing but the most sought-after brands, including Marmot, The North Face, Patagonia, and Suunto.

For: The Zen Hiker

Send someone you love (like, a lot) to the exotic Bhutanese Himalayas with Adventure Women tours. On this 2-week hiking trip, she'll visit ancient temples, dzongs, and meditation huts—all en route to a summit of 12,000 feet. \$5,095, March 30 to April 14, adventurewomen.com.

For: The Weekend Warrior

Hook her up with the wilderness gurus from EMS or REI. They offer an array of guided activities (complete with gear)—from climbing Mt. Washington (\$245 per

person, emsclimb.com), the Northeast's highest peak at 6,288 feet, to snowshoeing through stunning Yosemite (\$785, rei.com).

For: The VIP Traveler

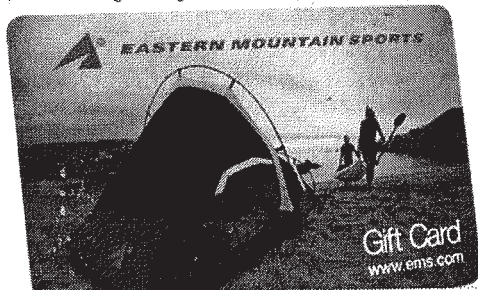
She loves to work out but is never in one place long enough to make joining a gym worthwhile. Sign her up with gymamerica.com, a Web site that features personalized workouts, animated exercise demos, and tips from health specialists and professional athletes. The best part? Monthly membership costs less than two tall lattes—or, \$42 for 6 months.



WORK OUT WITH WH

Maximize your body's fitness potential or kick your butt into gear in time for a big event (be it a wedding or a reunion) with our premier workout DVDs, **Train for Your Body Type** and **The Wedding Workout** (\$15 each, womenshealthdvd.com).

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EDITORS' CHOICE
AWARDS

35

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Kayland Vertigo High

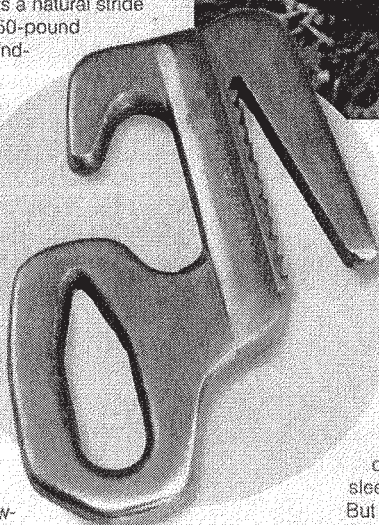
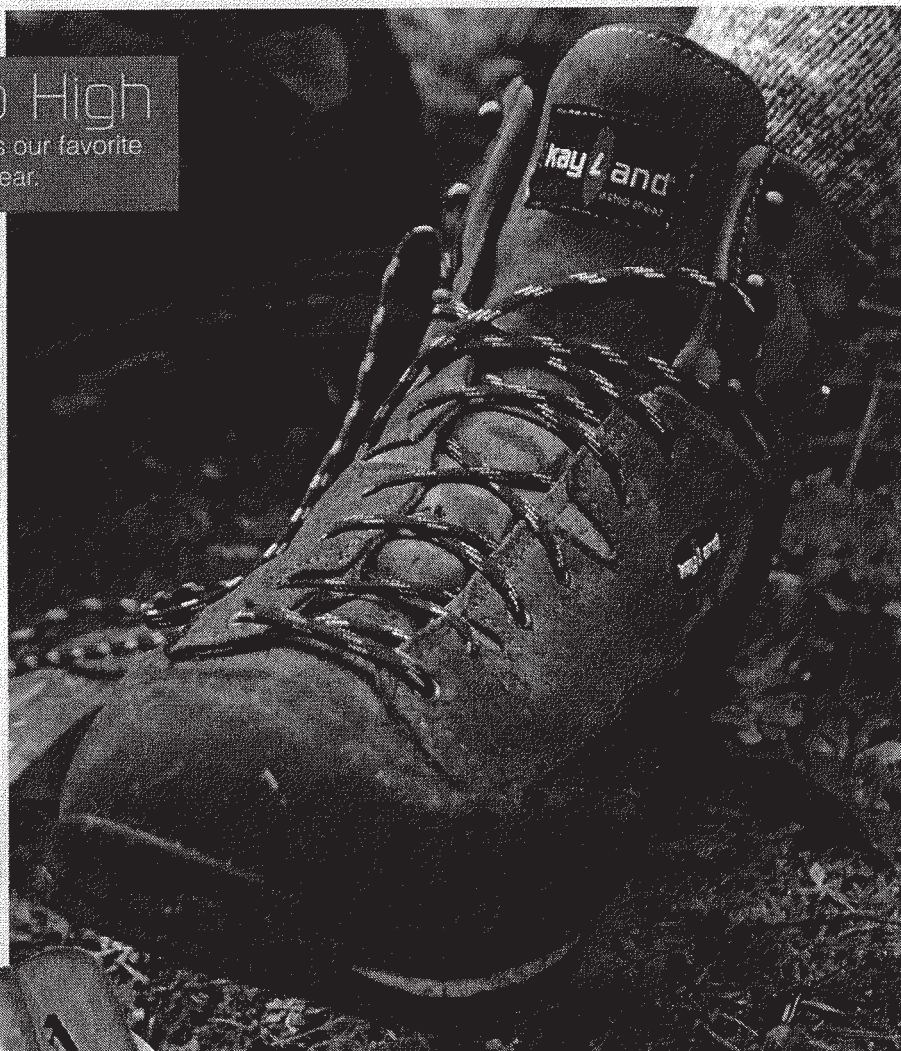
Light, dry, and nimble, this boot was our favorite among 110 models we tested this year.

Hiking out of Eagle Creek in a rain so persistent it soaked double-bagged food in the bellies of our packs, one editor remarked, "My feet are the only part of me that's dry." That says as much about these all-leather midweights as it does about the Gorge's notorious soggy.

It also bears out a truism many hikers don't appreciate: Keeping feet dry can depend as much on a boot's breathability as its waterproofing. That's where the Kayland's eVent membrane excels. It proved waterproof through days of stream crossings and wet snow. Yet when several of us misjudged a stream's depth and dunked our feet ankle-deep, we were amazed at how quickly our socks—and the boots—dried. In the dark, humid, rainy cold, there's only one way to dry out a sodden boot: with the heat of your foot. And that works only if the waterproof membrane breathes well enough for moisture to escape. In the most challenging conditions, our Vertigo Highs did just that.

Of six editors who tested the Vertigo, only the one with very wide feet didn't find the fit acceptable; that's an impressively universal last. The boot holds even skinny heels in place, cradles the midfoot, and gives toes wiggle room. It's stiff underfoot, yet flexible where needed, and the curved shape of the sole (aka rocker) allows a natural stride while lending support for 50-pound loads. Comfort was outstanding whether ascending or descending, cruising on easy trail, or scrambling off-trail. From the PCT to Idaho's Seven Devils, the widely spaced outsole lugs gave solid traction on mud and wet snow, while the rubber stuck to greasy log bridges and snow-covered talus.

The Vertigo doesn't have as much midsole cushion as many boots, but the resulting low-to-the-ground platform is reassuringly stable. One editor noted, "I always twist my right ankle—but not in these boots." The laces lock to prevent forefoot loosening, and like rock-climbing shoes, they extend to the toes for a custom fit that improves sensitivity. Construction is superb, with an extended rubber rand, few seams, and reinforced leather on the high-abuse outer side. \$200; men's 7-13, women's 6½-10; 3 lbs. 5 oz. (men's 9); (803) 918-7395; kayland.com. Reader service #104



Nite Ize Figure 9 Rope Tightener

Never tie (or untie) a trucker's hitch—or any other knot—again.

Applied to camping, the domino effect usually means one disaster cascading to the next until you're a miserable, shivering heap. As in: You forget the stakes, so the fly sags and collects water that drips onto your sleeping bag, soaking it through and ruining a good night of sleep. Bad stuff.

But the Figure 9 sets off a chain reaction of a different sort, one with purely positive results. This tiny, practically weightless (about an ounce) piece of aluminum makes tightening a line a knot- and curse-free task. Which in turn cuts the time and effort it takes to rig a tarp, which keeps you and your gear drier and more comfortable, which makes tarp camping feel more viable, which will cut your pack weight and help you cover more miles. Which will, well, you get the idea. Good stuff.

At a cold, wet campsite on the banks of Wahtum Lake in the Gorge, two editors were able to pitch a kitchen tarp across uneven terrain in a fraction of the time it'd take to wrestle with knots and hitches. Says our editor-in-chief: "Numb fingers? No worries. Adjustments? In seconds. Versatility? You bet—we rigged clotheslines, guylines, roof-rack tiedowns, even bear bags." And just in case you forget how it works, the instructions are laser-etched on the side. Comes in two sizes (for maximum 50-lb. and 150-lb. loads, respectively); you can also order a combo pack with cord. \$2 (S), \$4 (L); (303) 449-2576; niteize.com. Reader service #105

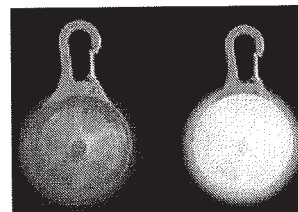
PHOTOS BY (CLOCKWISE FROM LEFT) THOMAS MACDONALD; STEVE HOWE; THOMAS MACDONALD; COURTESY; STEVE HOWE

SpotLit LED Clip-On Light by Niteize

Posted: 12/17/2007 In Category(s): Product Reviews

Sometimes the simplest things give us so much pleasure.

Niteize came out with a small light called a DropLit in early 2007 that was a grand idea – a small highly illuminating bulbous quarter-sized LED on a horseshoe-shaped hook. You could put it on zippers, key chains, pets, you name it. But it was a bit difficult to remove the hook from the LED so that it could be attached to an item. So Niteize changed the hook, and now the company has a real winner, the SpotLit, which appeared at retail in fall 2007.



Anybody who needs to be seen, needs a little illumination to see something (like a keyhole), or has a dog or pet who needs to be seen should have one of these new LED lights.

The only real change was replacing the twisted, slip-on hook with an itsy-bitsy spring-loaded clip that is easy to open and close, clip on or remove. But that one change was a dream. Other than ease of use, one primary difference is that the device now hangs straight and no longer twists as it did with the previous hook system (which we must say was difficult to figure out, hard to grab, and even slippery if your fingers were wet or gloved).

We used the light on ourselves on evening or pre-dawn runs and walks (and felt like a glowing pumpkin on the street). The SpotLit is also now a given if Kayla, the SNEWS® team dog, is out in the dark for a run or walk or is even just getting in a little fetch action in the dark. We have found we can see the brightly glowing light – either steady or blinking – from 300 yards away. We haven't really tested it farther to challenge that distance though. Throwing a ball to a dog in the pitch dark is hilarious when the dog has this clipped to his or her collar: All you can see is the light moving through space, emitting a glowing halo so you can see a shadow of your pet – and the ball when it gets near it. It's a guarantee you won't lose track of your pet in the dark, and a guarantee that you will also be seen during pre-dawn or post-sunset runs.

Our only issue is that there is a finicky rubber bulb you must press to turn the light on or turn it off. If you don't push hard enough, or press exactly in the right place, it won't cooperate. But that's a small matter. We love it, and the light will go in our suitcases for runs when we're off traveling, on our pet's collar for all wintertime games and walks, and on our zipper pulls for outings while at home.



It's available in red and white, is water resistant, has long-life replaceable batteries and weights just 0.6 ounces.

SNEWS® Rating: 4.5 hands clapping (1 to 5 hands clapping possible, with 5 clapping hands representing functional and design perfection)

Suggested Retail: \$7

For more information: www.niteize.com



To learn more about how SNEWS® conducts product reviews, [click here](#).

Thanks again for reading and for your support of SNEWS®! We look forward to hearing from you anytime.

Cheers,

Michael Hodgson & Therese Iknoian

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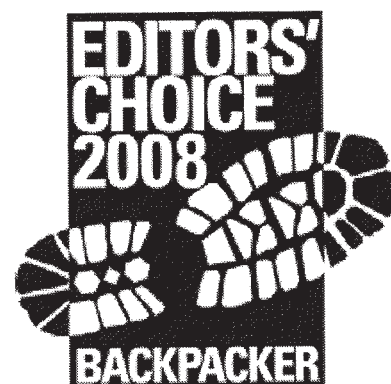
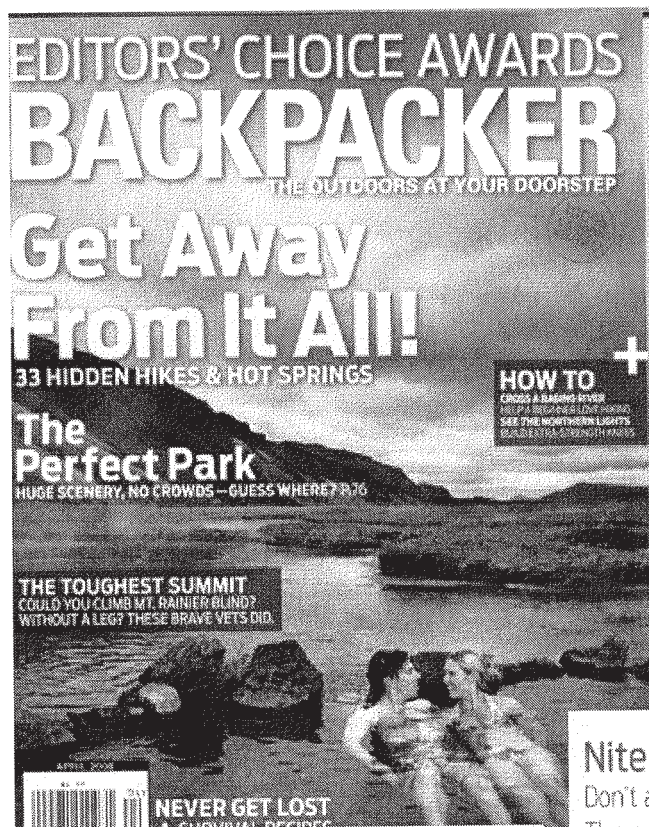
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Nite Ize S-Biner

Don't ask yourself if you need this useful little widget. The question is: How many?

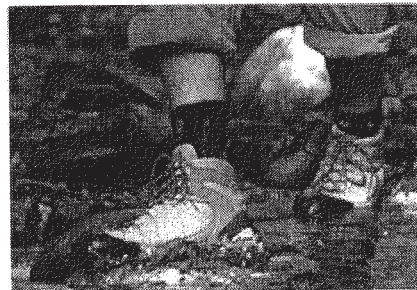
Few things rival duct tape and super glue in the cost-to-variability department. To that short list, add these S-shaped, double-gated carabiners. We used them to:

- Attach (and quickly detach) water bottles, GPS units, solar panel, camera bags, and sandals to our packs
- Rig guylines and deadman anchors
- Temporarily fix ripped tent fly corners
- Clip a bear bag to a rope
- Hang a headlamp from the tent ceiling
- Lock zippers together on baggage

Note: The biggest size holds up to 75 pounds. \$2-\$3.50. 5 sizes, up to 1 oz. each. (800) 678-6483; niteize.com. Reader service #114.



If you see it here, it has passed a grueling test. All year long, we've been testing gear on trips from the canyons of Capitol Reef to the heights of the Himalayas. After narrowing the field to 25 potential winners, nine editors descended on Colorado's Great Sand Dunes National Park and Sangre de Cristo Range in November. Frigid temperatures, long miles, and tent-crushing winds narrowed the field even further, and a week later we emerged with a consensus: 14 Editors' Choice winners, plus one Gold Award for a timeless performer and two Green Awards for products on the leading edge of sustainability. And the winners are...



**Backpacker Magazine
Editor's Choice Award
2008**

Nite Ize S-Biner